

REMARKS

Claims 17 to 38 are pending in the present application.

Claims 17 to 38 are allowable, and reconsideration of the present application is therefore respectfully requested in view of this response.

The Office Action asserts that new corrected drawings are required because formal drawings have not been submitted.

The new drawings requirement is respectfully traversed. Under current practice, the Office no longer considers drawings as formal or informal. Instead, as presently understood, drawings are either considered *acceptable* or *not acceptable* (See M.P.E.P. § 608.02(b)). In the previous Office Action dated December 23, 2008, the drawings were objected to under 37 CFR 1.83(a). However, the current Office Action has neither repeated the objection nor responded to Applicants' arguments that the drawings are, in fact, compliant with all the requirements of 37 CFR 1.83(a). In addition, the Office Action Summary indicates that the drawings have actually been accepted.

In the absence of any specific evidence as to why the drawings are assertedly deficient, it is respectfully submitted that new drawings need not be submitted at this time. Accordingly, it is respectfully submitted that the request for corrected drawings be withdrawn.

Claims 17 to 38 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. In particular, the Office Action asserts that the claims fail to recite essential steps and/or elements.

It is respectfully submitted that the "omitted steps"/"omitted elements" rejections are nothing more than omnibus rejections – which are not permitted by the Office (as explained in the relevant M.P.E.P. sections), since they offer no specific explanations as to why the claims are being rejected.

In particular, it is respectfully submitted that the Office Action's assertions amount to nothing more than conclusory statements in regard to the operability of the claimed subject matter. In particular, it is respectfully submitted that the Office Action is completely devoid of any explanation as to what or why steps and/or elements are missing. The Office Action merely recites the claims and then conclusorily asserts that there are omitted steps and/or

omitted elements. The Office Action cites form paragraph 7.34.13 which, according to MPEP § 706.03(d), should be followed by: (i) a recitation of the elements omitted from the claims; and (ii) a rationale for why the omitted elements are considered critical or essential.

The Office Action provides neither a recitation of omitted elements nor any rationale for why the omitted elements are critical/essential. Accordingly, it is respectfully submitted that the Office has failed to meet its burden of proving a *prima facie* case as to the rejected claims.

Further, it is respectfully submitted that the presently pending claims comply with the second paragraph of § 112 since a person having ordinary skill in the art would understand what is claimed when the claim is read in view of the specification. See *Miles Labs., Inc. v. Shandon, Inc.*, 997 F.2d 870, 27 U.S.P.Q.2d 123 (Fed. Cir. 1993).

In this regard, it is also noted that it is axiomatic that the terms in a claim are to be understood in view of the specification. (See *In re Weiss*, 26 U.S.P.Q.2d 1885, 1887 (Fed. Cir. 1993) (when interpreting a claim term or phrase, one must “look to the specification for the meaning ascribed to that term”; Board reversed) (unpublished decision); *In re Okuzawa*, 190 U.S.P.Q. 464, 466 (C.C.P.A. 1976) (“claims are not to be read in a vacuum, and limitations therein are to be interpreted in light of the specification”; Board reversed; emphasis in original) (citing *In re Royka*, 180 U.S.P.Q. 580, 582-83 (C.C.P.A. 1974) (claims are “not to be read in a vacuum” and “their terms still have to be given the meaning called for by the specification of which they form a part”; Board reversed; emphasis in original); and *In re Rohrbacher*, 128 U.S.P.Q. 117, 119 (C.C.P.A. 1960) (an “applicant is his own lexicographer and words used in his claims are to be interpreted in the sense in which they are used in the specification”; Board reversed)).

Accordingly, it is respectfully submitted that the meaning of the claim limitations recited in each of claims 17, 24, 27, 34, 37 and 38 (and dependent claims 18 to 23, 25, 26, 28 to 33, 35 and 36) are sufficiently clear to those of skill in the art to “particularly point out and distinctly claim the presently claimed subject matter, so as to comply with 35 U.S.C. § 112, second paragraph.

While the rejections may not be agreed with, to facilitate matters, the independent claims have been rewritten to better clarify the claimed subject matter. It is therefore respectfully requested that the rejections be withdrawn.

Accordingly, claims 17 to 38 are allowable.

CONCLUSION

It is therefore respectfully submitted that claims 17 to 38 are allowable. It is therefore respectfully requested that the rejections and objections/requirements be withdrawn, since all issues raised have been addressed and obviated. An early and favorable action on the merits is therefore respectfully requested.


Respectfully submitted,

Dated: 7/2/2009

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U.S. Pat. App. Ser. No. 10/534,107
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